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CAN CONSUMER-CHOICE PLANS SATISFY PATIENTS? PROBLEMS WITH THEORY AND PRACTICE IN HEALTH INSURANCE CONTRACTS

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Can Consumer-Choice Plans Satisfy Patients? Problems with Theory and Practice in Health Insurance Contracts

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Abstract

Much scholarship has considered whether health care - and insurance - should be distributed by voluntary contract or subject to government standards or regulation. Contracts will likely play a key distributive role in any future health care system. Yet we do not fully understand where private contracting does and does not work to further the goals of equitable access to affordable care. This article examines the role of health insurance policies in defining and enforcing access to medical care, focusing on private employment-based group health benefit plans. It describes models of consumer choice health plans and critiques their capacity for lessening consumer resistance to contract limits experienced in the managed care context. The article argues for developing a new conceptual framework for health insurance contracts that more clearly defines what insurers and patients can and cannot fairly agree upon in advance through contracts. It offers an approach to defining the questions that should be answered to determine how contracts can be written and interpreted to meet the needs of both insurers and patients. In the absence of more nuanced standards for interpreting and enforcing contracts that attempt to define legal rights to medical care and responsibilities for providing care, health insurance contracts are likely to remain the source - rather than the resolution - of disagreement.